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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,713	06/26/2003	Naysen Jesse Robertson	200208055-1	5776

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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER

BARAN, MARY C

ART UNIT	PAPER NUMBER
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2857

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/21/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/606,713

Applicant(s)

ROBERTSON ET AL.

Examiner

Mary Kate B. Baran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-6,8-20 and 22-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-6,8-20 and 22-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>16 January 2007</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The action is responsive to the Amendment filed on 16 January 2007. Claims 1, 2, 4-6, 8-20 and 22-29 are pending. Claims 1, 20 and 25 are amended. Claims 3, 7 and 21 are cancelled.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 25-29 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Pursuant to the Interim Guidelines on Patent Eligible Subject Matter (MPEP 2106), if a claim recites a judicial exception (i.e., an abstract idea, law of nature or physical phenomenon), the claims must recite either a physical transformation and/or a useful, concrete and tangible result. It is the Examiner's position that the claims are directed to abstract ideas. The claims fail to recite a transformation from one physical state to another. Further, although the claims appear useful and concrete, a tangible result is not claimed. Merely "monitoring... a response of said plurality of components" is not sufficient to constitute a tangible result, since the outcome of the monitoring step has not been used in a disclosed practical application nor made available in such a manner that its usefulness in a disclosed practical application can be realized. As such, the subject matter of the claims is not patent eligible.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4-6, 8-20 and 22-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vogley (U.S. Patent No. 6,617,872) in view of Hawkins et al. (U.S. PG-Pub. No. US2003/0130969) (hereinafter Hawkins).

Referring to claims 1, 20 and 25, Vogley teaches a margin testing system for frequency margin testing an electronic system (see Vogley, column 4 lines 1-2), the margin testing system comprising: a controller (see Vogley, column 4 lines 39-43); and a digital frequency synthesizer configured to communicate with said controller and generate one or more test frequencies (see Vogley, column 3 lines 17-43 and column 4 lines 39-43) for application to one or more of a plurality of components of said electronic system (see Vogley, column 2 lines 57-64 and Figure 1) in response to commands from said controller (see Vogley, column 4 lines 39-51 and column 6 lines 15-20); wherein said controller is configured to monitor a response of the plurality of components (see Vogley, column 2 lines 57-64 and Figure 1) of said electronic system to said test frequencies (see Vogley, column 4 lines 23-51), but does not specify that the microprocessor (i.e. controller) is a baseboard management controller.

Hawkins teaches a baseboard management controller which provides autonomous monitoring, event logging and recovery control (see Hawkins, page 2 [0015]-[0017]).

It would have been obvious at the time the invention was made to one of ordinary skill in the art to modify Vogley to include the teachings of Hawkins because substituting a baseboard management controller in place of the microprocessor, or controller, would have allowed the skilled artisan to provide intelligence to the platform management (see Hawkins, page 2 paragraph [0015]).

Referring to claims 2 and 26, Vogley teaches collecting and analyzing data regarding a response of one or more selected components of said system to said test frequencies (see Vogley, column 3 lines 17-32).

Referring to claims 4 and 5, Vogley teaches a hardware monitor configured to communicate with said controller and said frequency synthesizer to measure values of said one or more test frequencies and to transmit said measured values to said controller (see Vogley, column 4 lines 39-51 and column 5 lines 1-19) and to receive data regarding response of said components to said one or more test frequencies (see Vogley, column 4 lines 39-51 and column 5 lines 1-19).

Referring to claim 6, Vogley teaches that said controller is configured to transmit command signals to said frequency synthesizer to cause the synthesizer to generate

said one or more test frequencies (see Vogley, column 5 lines 1-19 and column 6 lines 15-20).

Referring to claims 8-10, 22-24, 27 and 28, Vogley teaches all the features of the claimed invention except that the BMC implements Intelligent Platform Management Interface (IPMI) protocol; that the communication bus is a I²C-based bus; that said I²C-based bus is an IPMB bus; and that said computer system is a computer server.

Hawkins teaches that the BMC implements Intelligent Platform Management Interface (IPMI) protocol (see Hawkins, pages 1-2 [0014]); that the communication bus is an I²C-based bus (see Hawkins, page 1 [0006]); that said I²C-based bus is an IPMB bus (see Hawkins, page 1 [0013]); and that said computer system is a computer server (see Hawkins, page 1 [0004]).

It would have been obvious at the time the invention was made to one of ordinary skill in the art to modify Vogley to include the teachings of Hawkins because implementing an Intelligent Platform Management Interface (IPMI) protocol, including an I²C-based bus, wherein said I²C-based bus is an IPMB bus, and that said computer system is a computer server would have allowed the skilled artisan to provide a star intelligent platform management bus topology.

Referring to claim 11, Vogley teaches that said frequency synthesizer receives an input reference clock signal and, in response to a command signal from said

controller, generates an output clock signal as a multiple of said input clock signal (see Vogley, column 3 lines 7-16).

Referring to claim 12, Vogley teaches that said frequency synthesizer applies said output clock signal as a test frequency to one or more components for frequency margin testing thereof (see Vogley, column 3 lines 7-16).

Referring to claims 13 and 29, Vogley teaches that said frequency synthesizer generates each one of a plurality of test frequencies based on a pattern of input bits received from the controller (see Vogley, column 6 lines 15-37).

Referring to claim 14, Vogley teaches that said controller initiates margin testing in response to commands from an external system (see Vogley, Figure 1 and column 3 lines 17-20).

Referring to claim 15, Vogley teaches that said external system comprises: a console in communication with said controller via a serial bus (see Vogley, column 3 lines 7-16).

Referring to claims 16 and 17, Vogley teaches that external system comprises: a remote computer in communication with said controller, said remote computer

communicates with said controller via a network-based connection (see Vogley, column 4 lines 44-67).

Referring to claim 18, Vogley teaches that said external system includes a scripting entity for generating commands for transmission to said controller (see Vogley, column 3 lines 34-43).

Referring to claim 19, Vogley teaches that said one or more components receive nominal clock frequencies in the absence of said test frequencies (see Vogley, column 6 lines 48-61).

Response to Arguments

4. Applicant's arguments filed 16 January 2007 have been fully considered but they are not persuasive.

Applicant argues that Vogley does not teach that the "baseboard management controller is configured to monitor a response of the plurality of components of said electronic system to said test frequencies." However, Applicant's arguments are not well taken. Vogley teaches multiple devices under test (i.e. components) which are installed on a test handler board (i.e. electronic system). These devices are then identified by their individual microprocessor and this identification information is then transmitted to the PC workstation, so that the workstation can then determine which tests to submit back to the microprocessors, where the devices are tested at various

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frequencies. Therefore, Vogley teaches a controller configured to monitor a response of the plurality of components (see Vogley, column 2 lines 57-64 and Figure 1) of said electronic system to said test frequencies (see Vogley, column 4 lines 23-51), but does not specify that the microprocessor (i.e. controller) is a baseboard management controller. Hawkins teaches a baseboard management controller which provides autonomous monitoring, event logging and recovery control (see Hawkins, page 2 [0015]-[0017]). It would have been obvious at the time the invention was made to one of ordinary skill in the art to modify Vogley to include the teachings of Hawkins because substituting a baseboard management controller in place of the microprocessor, or controller, would have allowed the skilled artisan to provide intelligence to the platform management (see Hawkins, page 2 paragraph [0015]).

5. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, as stated above, it would have been obvious at the time the invention was made to one of ordinary skill in the art to modify Vogley to include the teachings of Hawkins because substituting a baseboard management controller in place of the microprocessor, or controller, would

have allowed the skilled artisan to provide intelligence to the platform management (see Hawkins, page 2 paragraph [0015]).

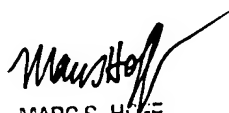
Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary Kate B. Baran whose telephone number is (571) 272-2211. The examiner can normally be reached on Monday - Friday from 9:00 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc S. Hoff can be reached on (571) 272-2216. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

18 March 2007


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